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**ORIGINAL**

RK

**Robert A. Delitta Individually and on  
behalf of others similarly situated**

**REQUEST TO PARTICIPATE  
AND  
CONSENT TO SUE  
"ECF Case"**

**Plaintiffs by  
Permissive Joinder,**

**-against-**

**City of Mt. Vernon New York,  
A Municipal Corporation**

**Defendant**

Richard Fox, under penalty of perjury declares the following to be true:

- 1) I reside at 335 Locust Street Mount Vernon New York 10550.
- 2) I was hired by the Defendant on January 14, 1989 as a Police Officer and worked continuously until present.
- 3) I am a member of the Bargaining Unit formed by the Collective Bargaining Agreement (CBA) between the Defendant and the Police Association of the City of Mount Vernon, Inc.
- 4) My claim against the Defendant is for uncompensated overtime pay, which constituted "hours worked" pursuant to 29 CFR §§778.223 and 778.315.
- 5) I regularly worked in a given work week in excess of 40 hours, and the Defendant did not record or pay me for the weekly hours worked in excess of 40, arising out of my weapons donning time of 10 minutes; my roll call time of 20 minutes; and my weapons doffing time of 10 minutes for a total of 40 minutes per work shift.
- 6) The "hours worked" were not unsubstantial or insignificant and therefore not de minimus as defined in 29 CFR §785.47.
- 7) The unpaid overtime referred to in ¶15 was never made up to me.



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to record the times mentioned in ¶¶5 & 6 herein as "hours worked" and thereby willfully failed to pay me overtime compensation in violation of the Fair Labor Standards Act and its regulations 29 CFR Part 778, and in violation of the New York State Labor Law §663 and its Regulations 12 NYCCR §142-2.2.

- 9) Upon information and belief I am a person who is similarly situated to the named Plaintiff Robert A. Delitta because I was subjected to a willful and common policy or plan by the Defendant to violate the Federal and State Labor Laws requiring the payment of all "hours worked", and I seek payment for all the hours worked, as described in ¶5 herein, and liquidated damages for such unlawful activities.
- 10) I have retained the Law Office of Joseph P. Carey, P.C. to represent me in the above action and hereby authorize such attorney to file with the Clerk of the Court this Request To Participate and Consent To Sue in this litigation.

Dated: March 10, 2008

  
Richard Fox



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**SOUTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
**Robert A. Delitta Individually and on  
behalf of others similarly situated**

**Plaintiffs by  
Permissive Joinder,**

**CONSENT TO SUE  
"ECF Case"**

**-against-**

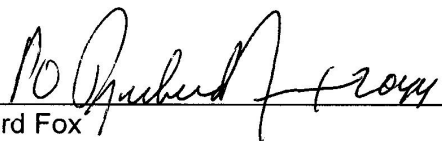
**City of Mt. Vernon New York,  
A Municipal Corporation**

**Defendant**

\_\_\_\_\_  
I hereby consent to be a Plaintiff in an action under the FLSA 29 USC § 201 at. seq., to secure any unpaid minimum wages, overtime, liquidated damages, attorneys' fees, costs and other relief arising out of my employment with the Defendant.

I authorize the law office of Joseph P. Carey, P.C. and any associated attorneys, as well as my successors or assigns, to represent me in such action.

Dated: 03.20.08

  
Richard Fox



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